

MARCHETTI WOOD LAW

177 N. Church Ave, Suite 1100
Tucson, Arizona 85701
(520) 448-3723

Lance J. Wood, lance@yourtucsonlawfirm.com

P.C.C. No. 66548 / State Bar No. 028448

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America)	4:24-cr-00243-RCC-1
)	
Plaintiff,)	SENTENCING MEMO
)	
vs.)	
)	
Matthew Wenham,)	
)	
<u>Defendant.</u>)	

Matthew Wenham, by and through counsel, hereby offers this Sentencing Memorandum for the Court's consideration at the time of sentencing on 13 August 2024, pursuant to Rule 32(i)(1)(D) and (i)(2), Fed. R. Crim. P., *United States v. Williams*, 41 F.3d 496 (9th Cir. 1994); *Rita v. United States*, 127 S. Ct. 2456 (2007), *Gall v. United States*, 128 S. Ct. 586 (2007), and *Kimbrough v. United States*, 128 S. Ct. 558 (2007).

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1 SUBMITTED: July 24, 2024.

2 MARCHETTI WOOD LAW

3 s/Lance J. Wood

4 Attorney for Mr. Wenham

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9 *Certificate of Service below.*

MEMORANDUM

I. Procedural Background/Sentencing Request

Mr. Wenham has been in custody since 24 October 2023 as a result of a supervised release violation (failure to register). Mr. Wenham was indicted with one count of failure to register as a sex offender on 17 January 2024. On 23 May 2024, Mr. Wenham pleaded guilty to the indictment (as well to the Supervised Release Violation).

According to the Pre-Sentence Report (PSR), Mr. Wenham's guideline range is 10 to 16 months. Pursuant to the plea agreement entered, the parties agreed to a sentencing range of no more than the bottom of the sentencing range. The PSR includes a recommendation of 10 months of confinement.

Importantly, counsel repeatedly requested a plea agreement in the case, as well as the SRV case. A plea was not offered in the instant case until 22 April 2024 (a plea in the SRV case was not offered until 9 May 2024). From 17 January 2024 to 22 April 2024, is 96 days (or 3 months and 5 days). From the day Mr. Wenham was brought into custody for the supervised release violation of failure to register, the same charge he pled to in the instant case, until a plea was offered in the case was 181 days (or 5 months and 29 days).

This is important because, as the Pre-Sentence Report notes, Mr. Wenham is not receiving any time credit in the instant offense because time is being credited

1 toward his supervised release violation. Counsel did not receive a plea in the
2 revocation case until 9 May 2024. In other words, it took 198 days (or 6 months and
3 15 days) to just simply receive an offer for the supervised release violation. The
4 Disposition Agreement for the supervised release violation stipulates a sentence of
5 not more than 3-6 months. There is not agreement in the revocation agreement
6 whether the sentence should run concurrent or consecutively to any other sentence.
7 Obviously, Mr. Wenham has served more than 6 months of confinement for the
8 supervised release violation, which is the top and agreed to in the SRV case.
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12 II. Conclusion

13 For the reasons set forth herein, and the delays which should not be attributed to
14 Mr. Wenham, we respectfully request this Honorable Court to sentence Mr. Wenham
15 to no more than 10 additional days of confinement. From the time he was brought
16 into custody, until the day of sentencing will be 9 months and 20 days. The
17 additional 10 days of confinement brings Mr. Wenham's total time in custody to 10
18 months.
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23 SUBMITTED: July 24, 2024.
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26 MARCHETTI WOOD

27 s/Lance J. Wood

28 Attorney for Mr. Wenham

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Certificate of Service

I hereby certify that on July 24, 2024, I electronically transmitted the attached document (along with a copy of all attachments) to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants.